

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

JEFFREY CHURCH,

*

CIV. 19-4193

*

Plaintiff,

*

vs.

*

*

MOTION TO DISMISS

STACE NELSON, (Former) Senator of District 19

*

S.D. Senate, individual and official capacity,

*

Defendant.

*

COMES NOW the named Defendant herein, Stace Nelson, by and through his attorney of record, R. Shawn Tornow of Tornow Law Office, P.C., and hereby moves the Court for its Order dismissing Plaintiff's December 3, 2019, Complaint based on Plaintiff's lack of lawful or proper service on Defendant and, as a result, to be dismissed forthwith by this Court for lack of jurisdiction pursuant to any and/or all of the provisions of Fed. R. Civ. P. 12(b)(1), (2), (4), (5) and/or (6). "If a defendant is improperly served, a federal court lacks [personal] jurisdiction over the defendant." *See, Printed Media Services, Inc. v. Solna Web, Inc.*, 11 F.3d 838, 843 (8th Cir. 1993). Additional details and related grounds for Defendant's motion, in part, are more fully outlined and generally set forth within the attached and incorporated *Affidavit of R. Shawn Tornow in Support of Defendant's Motion to Dismiss* as well as within Defendant's corresponding *Memorandum in Support of Motion to Dismiss* as (also) submitted in and as to be referenced to and for this file for the Court's review and consideration in such matter.

WHEREFORE, Defendant respectfully requests that the Court hereafter enter its order dismissing Plaintiff's Complaint, with prejudice, and granting Defendant such other and further relief, including Defendant's costs, including reasonable attorney's fees, if applicable, as may be just and equitable under the circumstances of this case.

Request for Oral Argument: If the Court deems it necessary, Defendant hereby submits his request for oral argument to further outline and address applicable legal argument(s) in this matter.

Dated this 11th day of March, 2020.

/s/ R. Shawn Tornow

R. Shawn Tornow, for
Tornow Law Office, P.C.
PO Box 90748

Sioux Falls, SD 57109-0748

Telephone: 605-271-9006

Email: rst.tlo@midconetwork.com

Attorney for Defendant, Stace V. Nelson

CERTIFICATE OF SERVICE:

I, R. Shawn Tornow, do hereby certify that on this 11th day of March, 2020, a true and correct copy of Defendant's *Motion to Dismiss, Affidavit of R. Shawn Tornow in Support of Defendant's Motion* and *Memorandum in Support of Motion to Dismiss* were sent by e-mailing the same thru the Court's CM/ECF system, to the attention of Plaintiff's attorney, Alex Hagen, at the physical and/or at the listed e-address as indicated below:

Alex Hagen
Cadwell Sanford Deibert & Garry, LLP
210 E. 10th Street, Suite 200
Sioux Falls, SD 57104
E-mail: ahagen@cadlaw.com

/s/ R. Shawn Tornow

R. Shawn Tornow